

Neifeld Docket No: INVE0012-1

Application/Patent No: 09/251,480 7,958,224

USPTO CONFIRMATION NO: 3291

File/Issue Date: 2/17/1999 6/7/2011

Inventor/Title: Amjadi/Incentive Network

Examiner/ArtUnit: Dinh/2451

ENTITY STATUS: LARGE

ASSISTANT COMMISSIONER FOR PATENTS

ALEXANDRIA, VA 22313

37 CFR 1.701 APPLICATION FOR PATENT TERM EXTENSION

I. Statement of the Precise Relief Requested

The patentee requests that the Director change the extension of patent term under 37 CFR 1.701 to 1165 days.

II. Material Facts in Support of the Petition

1. The Director determined a patent adjustment of 876 days, under 35 USC 154 (b), as noted on the issue notification dated May 18, 2011.

2. 35 USC 154 (b) applies to patents filed on or after May 29, 2000.

3. The subject application was filed February 17, 1999, therefore 37 CFR 1.701, which covers applications filed on or after June 8, 1995 and before May 29, 2000, is applicable to determine patent term extension.

4. 37 CFR 1.701 (a)(3) states in pertinent part: (a) A patent, other than for designs, issued on an application filed on or after June 8, 1995, is entitled to extension of the patent term if the issuance of the patent was delayed due to: Appellate review by the Board of Patent Appeals and Interferences or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability and if the patent is not subject to a terminal disclaimer due to the issuance of another patent

claiming subject matter that is not patentably distinct from that under appellate review.

5. 37 CFR 1.701 (b) states: "The term of a patent entitled to extension under paragraph (a) of this section shall be extended for the sum of the periods of delay calculated under paragraphs (c)(1), (c)(2), (c)(3) and (d) of this section, to the extent that these periods are not overlapping, up to a maximum of five years. The extension will run from the expiration date of the patent."

5A. 37 CFR 1.701(d) states "(d)The period of delay set forth in paragraph (c)(3) shall be reduced by: ... (2)Any time during the period of appellate review, as determined by the Director, during which the applicant for patent did not act with due diligence. "

5B. 37 CFR 1.704(b) states that "an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant".

USPTO DELAY

6. On March 19, 2007, the applicant filed a notice of appeal.

7. On August 27, 2010, the USPTO mailed a BPAI decision on appeal, reversing the rejections.

8. The total USPTO delay spans March 19, 2007 through August 27, 2010; and the total USPTO delay is 1257 days.

APPLICANT DELAY

9. On May 14, 2007, the USPTO mailed a pre-brief appeal conference decision.

10. On November 14, 2007, the applicant filed an appeal brief.

11. The total applicant delay spans August 14, 2007 through November 14, 2007, which is 92 days.

III. Reasons Why the Relief Requested Should be Granted

The term extension applicable under 37 CFR 1.701 is calculated as follows:

12. 37 CFR 1.701 (b) states: “The term of a patent entitled to extension under paragraph (a) of this section shall be extended for the sum of the periods of delay calculated under paragraphs (c)(1), (c)(2), (c)(3) and (d) of this section, to the extent that these periods are not overlapping, up to a maximum of five years. The extension will run from the expiration date of the patent.”

13. 37 CFR 1.701 (c)(3) The period of delay under paragraph (a)(3) of this section is the sum of the number of days, if any, in the period beginning on the date on which an appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

14. **As noted in facts 6-8 above, as applied to facts 12 and 13 above, the total USPTO delay is 1257 days.**

15. The net USPTO delay is 1257 days less 92 days, or 1165 days. The applicant is entitled to 1169 days of patent term extension under 37 CFR 1.701.

16. Exhibit 1 attached hereto is an image of the Transaction History tab of PAIR for this application, showing the dates noted herein above.

IV. **Conclusion**

The net patent term extension is 1165 days.

V. **Fee under 37 CFR 1.18(e)**

An EFS credit card authorization in the amount of \$200 is submitted herewith to cover the fee for filing an application for the patent term adjustment.

Respectfully submitted,

/BruceMargulies/

BRUCE MARGULIES

Reg. No. 64,175 Attorney of Record

Date 6/23/2011

Printed: June 23, 2011 (10:58am)

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Exhibit 1



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09/25/1485 INCENTIVE NETWORK FOR DISTRIBUTING INCENTIVES ON A NETWORK-WIDE BASIS AND FOR PERMITTING USER ACCESS TO INDIVIDUAL INCENTIVES FROM A PLURALITY OF NETWORK SERVERS INVENTOR:12-1



Select New Case	Application Data	Transaction History	Image File Wrapper	Patent Term Adjustments	Continuity Data	Fees	Published Documents	Address & Attorney/Agent	Assignments	Display References
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Transaction History**Date Transaction Description**

06-07-2011 Recordation of Patent Grant Mailed

05-19-2011 Email Notification

05-18-2011 Issue Notification Mailed

06-07-2011 Patent Issue Date Used in PTA Calculation

05-09-2011 Dispatch to FDC

05-03-2011 Email Notification

05-03-2011 Printer Rush- No mailing

05-03-2011 Mailing Corrected Notice of Allowability

04-28-2011 Document Verification

04-25-2011 Corrected Notice of Allowability

04-08-2011 Pubs Case Remand to TC

03-10-2011 Workflow - Drawings Finished

01-24-2011 Workflow - Drawings Finished

01-13-2011 Email Notification

01-12-2011 Application Is Considered Ready for Issue

01-09-2011 Issue Fee Payment Verified

01-09-2011 Statement Filed Indicating a Loss of Entitlement to Small Entity Status

01-13-2011 Mail PUB other miscellaneous communication to applicant

01-11-2011 PUB Other miscellaneous communication to applicant

01-09-2011 Issue Fee Payment Received

12-27-2010 Receipt into Pubs

12-21-2010 Mail Post Card

12-13-2010 Email Notification

12-13-2010 Mail Notice of Allowance

12-09-2010 Document Verification

12-09-2010 Notice of Allowance Data Verification Completed

12-09-2010 Case Docketed to Examiner in GAU

09-01-2010 Information Disclosure Statement considered

09-25-2010 Information Disclosure Statement considered

03-12-2009 Information Disclosure Statement considered

09-01-2010 Information Disclosure Statement considered

09-25-2010 Information Disclosure Statement considered

09-25-2010 Reference capture on IDS

09-25-2010 Information Disclosure Statement (IDS) Filed

09-25-2010 Information Disclosure Statement (IDS) Filed

09-25-2010 Information Disclosure Statement (IDS) Filed

09-01-2010 Reference capture on IDS

09-01-2010 Information Disclosure Statement (IDS) Filed

09-01-2010 Information Disclosure Statement (IDS) Filed

09-01-2010 Information Disclosure Statement (IDS) Filed

08-27-2010 Electronic Review

08-27-2010 Email Notification

08-27-2010 Mail BPAI Decision on Appeal - Reversed

08-25-2010 BPAI Decision - Examiner Reversed

06-24-2010 Waiver of Hearing by Appellant

06-14-2010 Email Notification

06-14-2010 Notification of Appeal Hearing

05-10-2010 Email Notification

05-10-2010 Change in Power of Attorney (May Include Associate POA)

05-07-2010 Correspondence Address Change

05-06-2010 Correspondence Address Change

08-03-2009 Docketing Notice Mailed to Appellant

07-31-2009 Assignment of Appeal Number

07-27-2009 Appeal Awaiting BPAI Docketing

07-22-2009 TC completion of return order

05-01-2009 Mail Miscellaneous Communication to Applicant

04-29-2009 Miscellaneous Communication to Applicant - No Action Count

03-12-2009 Reference capture on IDS

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03-12-2009	Information Disclosure Statement (IDS) Filed
04-09-2009	Order Returning Undocketed Appeal to the Examiner
03-12-2009	Information Disclosure Statement (IDS) Filed
02-18-2009	Appeal Awaiting BPAI Docketing
02-10-2009	Appeal ready for BPAI review
11-07-2008	Appeal ready for BPAI docketing
10-22-2008	Mail Miscellaneous Communication to Applicant
10-21-2008	Miscellaneous Communication to Applicant - No Action Count
10-06-2008	Case Docketed to Examiner in GAU
09-09-2008	Return of Undocketed appeal to the TC
09-09-2008	Exam. Ans. Review Complete
08-21-2008	Mail Examiner's Answer
08-18-2008	Examiner's Answer to Appeal Brief
08-18-2008	Date Forwarded to Examiner
11-14-2007	Appeal Brief Filed
08-19-2008	Mail of Withdraw of Informal Amendment Notice
08-18-2008	Withdraw of Informal Amendment Notice
03-31-2008	Mail Examiner Interview Summary (PTOL - 413)
03-20-2008	Examiner Interview Summary Record (PTOL - 413)
01-30-2008	Notice -- Defective Appeal Brief
11-27-2007	Appeal Brief Review Complete
11-27-2007	Date Forwarded to Examiner
11-14-2007	Defective / Incomplete Appeal Brief Filed
11-14-2007	Appeal Brief Filed
11-28-2007	Mail Notice of Rescinded Abandonment
11-27-2007	Notice of Rescinded Abandonment in TCs
11-09-2007	Mail-Petition to Revive Application - Granted
11-09-2007	Petition to Revive Application - Granted
11-09-2007	Petition Entered
10-09-2007	Mail Abandonment for Failure to Respond to Office Action
10-01-2007	Aband. for Failure to Respond to O. A.
05-14-2007	Mail Appeals conf. Proceed to BPAI
05-10-2007	Pre-Appeals Conference Decision - Proceed to BPAI
03-19-2007	Request for Pre-Appeal Conference Filed
03-19-2007	Notice of Appeal Filed
03-19-2007	Request for Extension of Time - Granted
11-17-2006	Mail Non-Final Rejection
11-13-2006	Non-Final Rejection
09-05-2006	Date Forwarded to Examiner
08-24-2006	Appeal Brief Filed
08-24-2006	Request for Extension of Time - Granted
08-02-2006	Notice -- Defective Appeal Brief
07-31-2006	Appeal Brief Review Complete
07-31-2006	Date Forwarded to Examiner
07-03-2006	Defective / Incomplete Appeal Brief Filed
07-03-2006	Appeal Brief Filed
07-03-2006	Request for Extension of Time - Granted
03-02-2006	Mail Appeals conf. Proceed to BPAI
02-28-2006	Pre-Appeals Conference Decision - Proceed to BPAI
01-09-2006	Request for Pre-Appeal Conference Filed
01-11-2006	Notice of Appeal Filed
01-11-2006	Request for Extension of Time - Granted
10-06-2005	Mail Final Rejection (PTOL - 326)
10-03-2005	Final Rejection
07-29-2005	Date Forwarded to Examiner
07-22-2005	Response after Non-Final Action
04-22-2005	Mail Non-Final Rejection
04-18-2005	Non-Final Rejection
04-13-2005	Correspondence Address Change
02-13-2005	IFW TSS Processing by Tech Center Complete
02-13-2005	Date Forwarded to Examiner
02-13-2005	Date Forwarded to Examiner
01-28-2005	Request for Continued Examination (RCE)
02-13-2005	Disposal for a RCE / CPA / R129
01-28-2005	Reference capture on IDS
01-28-2005	Information Disclosure Statement (IDS) Filed
01-28-2005	Information Disclosure Statement (IDS) Filed
07-12-1999	Oath or Declaration Filed (Including Supplemental)
01-28-2005	Workflow incoming amendment IFW
01-28-2005	Workflow - Request for RCE - Begin
07-28-2004	Mail Final Rejection (PTOL - 326)
07-26-2004	Final Rejection
07-26-2004	Case Docketed to Examiner in GAU

05-04-2004	Date Forwarded to Examiner
04-22-2004	Response after Non-Final Action
04-22-2004	Request for Extension of Time - Granted
04-22-2004	Workflow incoming amendment IFW
10-23-2003	Mail Non-Final Rejection
10-17-2003	Non-Final Rejection
10-09-2003	Date Forwarded to Examiner
10-09-2003	Date Forwarded to Examiner
09-30-2003	Request for Continued Examination (RCE)
10-09-2003	Disposal for a RCE / CPA / R129
09-30-2003	Workflow - Request for RCE - Begin
06-30-2003	Mail Final Rejection (PTOL - 326)
06-27-2003	Final Rejection
04-22-2003	Date Forwarded to Examiner
04-15-2003	Response after Non-Final Action
04-15-2003	Request for Extension of Time - Granted
11-15-2002	Mail Non-Final Rejection
11-14-2002	Non-Final Rejection
09-13-2002	Date Forwarded to Examiner
08-28-2002	Continuing Prosecution Application - Continuation (ACPA)
09-13-2002	Disposal for a RCE / CPA / R129
08-28-2002	Request for Extension of Time - Granted
09-11-2002	Mail-Petition to Revive Application - Granted
08-28-2002	Petition Entered
08-28-2002	Workflow - Request for CPA - Begin
06-10-2002	Correspondence Address Change
06-11-2002	Change in Power of Attorney (May Include Associate POA)
11-26-2001	Correspondence Address Change
05-29-2001	Mail-Petition Decision - Denied
05-23-2001	Petition Entered
05-22-2001	Mail Non-Final Rejection
05-18-2001	Non-Final Rejection
03-28-2001	Case Docketed to Examiner in GAU
07-16-1999	Information Disclosure Statement (IDS) Filed
07-16-1999	Information Disclosure Statement (IDS) Filed
10-15-1999	Case Docketed to Examiner in GAU
08-18-1999	Information Disclosure Statement (IDS) Filed
08-18-1999	Information Disclosure Statement (IDS) Filed
08-11-1999	Information Disclosure Statement (IDS) Filed
08-11-1999	Information Disclosure Statement (IDS) Filed
07-27-1999	Application Dispatched from OIPE
07-16-1999	Application Is Now Complete
03-10-1999	Notice Mailed--Application Incomplete--Filing Date Assigned
03-04-1999	IFW Scan & PACR Auto Security Review
02-23-1999	Initial Exam Team nn

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